

REMARKS/ARGUMENTS

Claims 1, 2, 5, 6, 9, 10, 12, 13, 15-18, 20, 21, 23, 24, 26, 27, 29-32, 34, 35, 37-40, 42, 43, 45-50, 52, 53, 55-58, 60, 61, 63-65, and 67-85 were pending at the time of the mailing of the outstanding Office Action. No claims have been added, cancelled or amended with this response.

Claims 1, 2, 5, 6, 9, 10, 12, 13, 15-18, 20, 21, 23, 24, 26, 27, 29-32, 34, 35, 37-40, 42, 43, 45-50, 52, 53, 55-58, 60, 61, 63-65 and 67-85 are subject to restriction. The Examiner alleges that the application contains claims directed to four species, namely, the species of figures 1-4. The examiner alleges that each of these species is independent or distinct because the structures of these species are significantly different from one another. The Examiner further alleges that no claim is generic.

While the Applicants traverse the restriction/election requirement, they recognize the requirement to elect a single species for prosecution and elect the species of Figure 3.

The Applicants traverse the restriction requirement because the species identified by the Examiner are not independent or distinct. The elements of claim 1 are illustrative. Claim 1 recites elements that are common to all four species. Figures 1-4 all show a stent having a tubular body with a peripheral surface formed from a number of annular support portions that comprise bar elements and that are connected in a longitudinal direction of the stent at an engagement point by way of connecting bars, bar elements of at least a first annular support portion that extend in a meander configuration in a peripheral direction of the stent, each bar element consisting of first and second bar element portions that adjoin at a turning point in an angle having a V-shape in the compressed first condition of the stent, where all of the first and second bar element portions of the first annular support portion extend in the longitudinal direction of the stent curvedly in an identical concave or convex arcuate manner, wherein all of the first and second bar element portions of the first annular support portion extend to an identical

extent in the longitudinal direction, and wherein the first and second bar element portions are either entirely concave over the entire length of the bar element portion or convex over the entire length of the bar element portion. Likewise for claim 2, Figures 1-4 all show a stent having bar elements of a continuously curved configuration. Similarly, the additional limitations recited in claims 5 and 6 are not exclusive to any of Figures 1-4. Therefore, claims 1, 2, 5, and 6 are generic for all species.

The additional limitations of claims 9 and 10, "a number of adjacent first annular support portions whose bar element portions are curved in the same direction," are shown in Figures 1 and 2 which show stents having bar element portions that are all curved in the same direction, and in Figure 3, which shows a stent having pairs of annular support portions whose bar element portions are all curved in the same direction. Therefore, claims 9 and 10 are generic for the species of Figures 1-3.

The additional limitations of claims 12 and 13, "a number of adjacent first annular support portions, wherein the direction of curvature of the bar element portions of the annular support portions changes in the longitudinal direction of the stent," are shown in Figures 3 and 4. Similarly the additional limitations of claims 15 and 16, "the direction of curvature of the bar element portions changes from one annular support portion to another or the annular support portions have bar element portions in pairs with the same direction of curvature," are also shown in both Figures 3 and 4. Therefore, claims 12, 13, 15, and 16 are generic for the species of Figures 3 and 4.

The additional limitations of claims 17, 18, 20, 21, and 23, "the connecting bars compensate for the reduction in length of the bar elements in the longitudinal direction of the stent upon expansion of the stent," are not specific to any of the species identified by the Examiner. Therefore these claims will be grouped with the claims from which they depend. Claims 17 and 18 are generic for the claims of species 3 and 4, claims 20 and 21 are generic for the claims of species 1, 2 and 3, and claim 23 is generic for claims of species 1, 2, 3 and 4. Likewise for claims 24, 26, 27, 29, and 30, these claims will also be

grouped with the claims from which they depend because the limitations of these claims, “the engagement points and the length of the connecting bars are so selected that the reduction in length of the bar elements in the longitudinal direction of the stent upon expansion of the stent is substantially compensated,” are not specific for any of the identified species. Therefore, claim 24 is generic for claims of species 1, 2, 3 and 4, claims 26 and 27 are generic for the claims of species 1, 2 and 3, and claims 29 and 30 are generic for the claims of species 3 and 4.

The additional limitations of claims 31, 32, 34, 35, 37, and 38 further illustrate that the present restriction/election requirement is inappropriate. The additional limitations of these claims, “the bar elements meander in a periodic manner in the peripheral direction of the stent; and in the compressed first condition of the stent, the connecting bars, which are rectilinear, extend between two mutually facing turning points of two adjoining bar elements that are displaced relative to each other by between one and two periods of the bar element meander,” are shown in Figure 1. However, claims 31 and 32 depend from claims that read on the species of Figure 3 and 4. This further illustrates that the species identified by the Examiner are not independent or distinct from each other. Therefore, under the Examiner’s restriction/election requirement, it is impossible to classify claims 31 or 32, or claims 45, 46, 49, 50, 63 or 64, which depend from claims 31 and 32, as reading on any specific species as identified by the Examiner.

The added limitations of claims 39, 40, 42, 43 and 47, “the connecting bars are adapted to increase the flexibility of the stent,” read on all four species and therefore these claims should be grouped with the claims from which they depend. Therefore, claims 39, 40, 42 and 43 read on species 1 and claim 47 is generic for species 1-4.

The limitations of claims 48, 49, 50, 52, 53, 55, and 56, which recite the presence of V-shaped connecting bars, are shown in Figures 2-4. However, claims 49, 50, 52, 53, 55, and 56 depend from claims that were specific to the species of Figure 1. As with claims 31, 32, 45, 46, 49, 50, 63 and 64, claims 49, 50, 52, 53, 55, and 56 are impossible

to classify as belonging to any of the species identified by the Examiner. Claim 48 is generic for the species of Figures 2, 3, and 4. Similarly, the limitations of claims 57, 58, 60, 61, 63, 64, and 65, "the connecting bars engage a central region of the bar element portions and are adapted to the curvature thereof," are shown in Figures 2 and 3, but claims 57, 58, 60, 61, 63, 64 indirectly depend from claims 31, 32, 34, 35, 37, and 38, which are specific for the species of Figure 1. Therefore, these claims are also impossible to classify as belonging to any of the species identified by the Examiner. Claim 65 is generic for the species of Figures 2 and 3.

Claims 69 and 72 provide limitations that are shown in Figures 3 and 4. However, both of these claims depend from claim 67 which reads on the species of Figure 1. Independent claim 73 reads on the species of Figure 2 and 3, as does claim 74. Claim 75 which depends from claim 74 reads on the species of Figure 3. The limitation of claim 77 is shown in Figures 3 and 4 and because it depends from claim 73, reads on the species of Figure 3. Claim 80 reads on the species of Figures 2-4, but depends from claim 79 which reads on the species of figure 4. Claims 80 and 81 read on the species of Figures 2 and 3 but these claims also depend from claim 79.

For the reasons set forth above, the Applicants maintain that the present restriction requirement is improper because the species identified by the Examiner are not independent and distinct. However, as required, the Applicants elect the claims of the species of Figure 3. Claims 1, 2, 5, 6, 23, 24 and 47 are generic for all species. Claims 9, 10, 20, 21, 26, 27, are generic for the species of Figures 1, 2 and 3. Claims 12, 13, 15-18, 29 and 30 are generic for the species of Figures 3 and 4. Claims 48 is generic for the species of Figures 2-4 and claims 65, 73 and 74 are generic for the species of Figures 2 and 3. Claims 75 and 77 read on the species of Figure 3. Therefore, at least claims 1, 2, 5, 6, 9, 10, 12, 13, 15-18, 20, 21, 23, 24, 26, 27, 29, 30, 47, 48, 65, 73 – 75, and 77 are under consideration.

The outstanding Office Action was mailed on 2 May 2006. The Examiner set a shortened statutory period for reply of 1 month from the mailing date. Therefore, a petition for an extension of time (one-month) is made with this response. The Commissioner is authorized to charge the fee for the extension of time to Deposit Account 15-0450. No other fees are believed to be due. However, in the event that any fee required with the filing of this response is insufficient the Commissioner is authorized to charge any fee or to credit any overpayment associated with the filing of this paper to Deposit Account 15-0450.

Respectfully submitted,



John J. Cunniff
Reg. No 42,451
Hahn Loeser + Parks LLP
One GOJO Plaza
Suite 300
Akron, OH 44311

Attorney for Applicants